


# Exhibit 13

**Infringement of U.S. Patent No. 8,266,749  
by New Balance**

The allegations made herein are based on information currently available to Nike. Nike reserves the right to amend and/or supplement these allegations based on information provided during the course of this case, including during the course of fact and expert discovery that has yet to take place. Nike also reserves the right to supplement and/or amend these allegations in light of the construction of any claim terms that are disputed by the parties and to the extent that such claim construction affects any of the claims set forth in the chart below. In the event that a claim element is deemed to be missing under a literal infringement analysis (*e.g.*, due to claim construction), Nike reserves the right to demonstrate the presence of a substantial equivalent of such an element and to pursue infringement under the doctrine of equivalents. Moreover, no statements made herein are intended as an admission regarding the meaning of any claim term.

'749 Patent Claim Limitations	Evidence of Infringement
<p>1[pre]. A method of manufacturing an article of footwear, the method comprising:</p>	<p><i>To the extent the preamble is limiting, the Fresh Foam X 860 v13, FuelCell SuperComp Trainer, FuelCell Rebel v3, Fresh Foam X More v4, FuelCell Propel v4, Fresh Foam X More Trail v3, XC Seven v4, FuelCell SD100 v5, and FuelCell SuperComp XC-X styles are articles of footwear manufactured by, or cause to be manufactured by, New Balance.</i></p> <p><u>Fresh Foam X 860 v13:</u></p>  <p><u>FuelCell SuperComp Trainer:</u></p> 

FuelCell Rebel v3:



Fresh Foam X More v4:



FuelCell Propel v4:



Fresh Foam X More Trail v3:



XC Seven v4:



FuelCell SD100 v5:




FuelCell SuperComp XC-X:

1[a]. simultaneously knitting a textile element with a surrounding textile structure, the knitted textile element having at least one knitted texture that differs from a knitted texture in the surrounding knitted textile structure;

*Upon information and belief, during manufacturing of the Fresh Foam X 860 v13, FuelCell SuperComp Trainer, FuelCell Rebel v3, Fresh Foam X More v4, FuelCell Propel v4, Fresh Foam X More Trail v3, XC Seven v4, FuelCell SD100 v5, and FuelCell SuperComp XC-X styles, New Balance performs, or causes to be performed, the step of simultaneously knitting a textile element with a surrounding textile structure, the knitted textile element having at least one knitted texture that differs from a knitted texture in the surrounding knitted textile structure.*

On information and belief, the knit and/or “engineered mesh” upper for each of the New Balance Fresh Foam X 860 v13, FuelCell SuperComp Trainer, FuelCell Rebel v3, Fresh Foam X More v4, FuelCell Propel v4, Fresh Foam X More Trail v3, XC Seven v4, FuelCell SD100 v5, and FuelCell SuperComp XC-X styles is simultaneously knitted as a textile element with a surrounding textile structure from which the textile element is removed.



	<p><u>Fresh Foam X 860 v13:</u></p> <p><b>Product Details</b> <span>+</span></p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• Fresh Foam X midsole foam with approximately 3% bio-based content delivers our most cushioned Fresh Foam experience for incredible comfort. Bio-based content is made from renewable resources to help reduce our carbon footprint.</li><li>• Dual density midsole uses two different foams for the ideal combination of comfort and performance</li><li>• Medial post helps control pronation</li><li>• Reflective accents</li><li>• Received the Seal of Acceptance from the American Podiatric Medical Association (APMA)</li><li>•  309 grams (10.9 oz)</li></ul> <p><b>Material</b></p> <ul style="list-style-type: none"><li>• <b>Structured and breathable air mesh upper</b></li></ul> <p>Fresh Foam X 860v13 Product Page (available at <a href="https://www.newbalance.com/pd/fresh-foam-x-860v13/M860V13-41199.html">https://www.newbalance.com/pd/fresh-foam-x-860v13/M860V13-41199.html</a>)</p>
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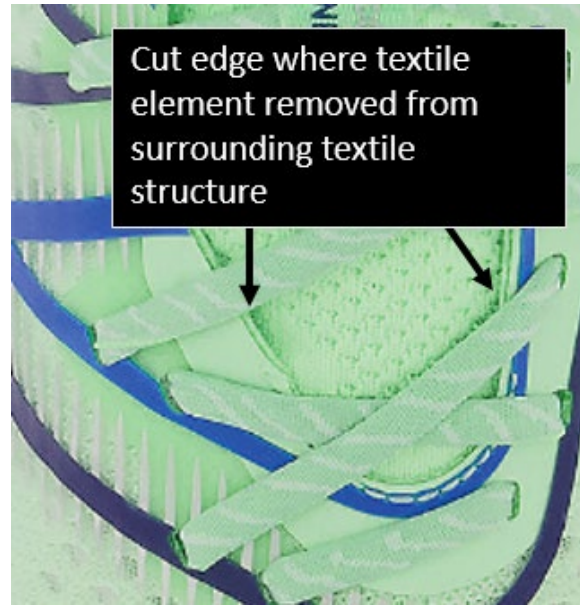


FuelCell SuperComp Trainer:

**Features**

- Features Energy Arc: Energy Arc pairs sport-specific carbon fiber plate geometry with strategic midsole voids, designed to increase stored energy to deliver a higher amount of total energy returned
- FuelCell foam delivers a propulsive feel to help drive you forward
- 47mm midsole height
- Breathable, flat knit upper with lock-in fit feeling
- 'N' logo design wraps around to lateral side of shoe

FuelCell SuperComp Trainer Product Page (available at <https://www.newbalance.com/pd/fuelcell-supercomp-trainer/MRCXV2-MPS.html>)



(FuelCell SuperComp Trainer “Vibrant spring glo with victory blue and vibrant apricot” colorway)

	<p><u>FuelCell Rebel v3:</u></p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• FuelCell foam delivers a propulsive feel to help drive you forward</li><li>• Lightweight engineered knit upper with no sew overlays</li><li>• Gusseted tongue designed for a sleek fit</li><li>• Lace closure for an adjustable, secure fit</li><li>• 6 mm drop; due to variances created during the development and manufacturing processes, all references to 6 mm drop are approximate</li><li>• Design inspired by classic racing shoes to evoke the spirit of speed</li></ul> <p>FuelCell Rebel v3 Product Page (available at <a href="https://www.newbalance.com/pd/fuelcell-rebel-v3/MFCXV3-MPS.html">https://www.newbalance.com/pd/fuelcell-rebel-v3/MFCXV3-MPS.html</a>)</p>
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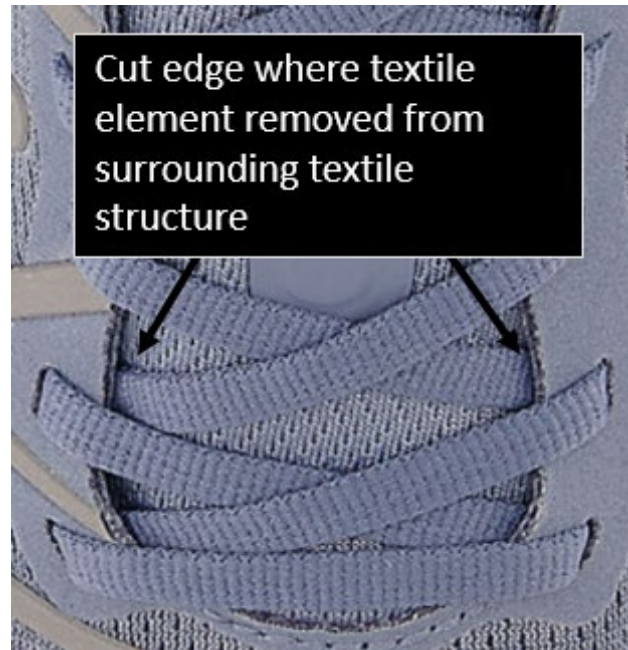


Fresh Foam X More v4:

**Features**

- Fresh Foam X midsole foam with approximately 3% bio-based content delivers our most cushioned Fresh Foam experience for incredible comfort. Bio-based content is made from renewable resources to help reduce our carbon footprint.
- Engineered mesh upper with zonal support and breathability
- Data informed outsole placement
- Reflective N logo
- 34 mm heel stack of midsole + outsole (due to variances created during the development and manufacturing processes, all references to 34 mm stack are approximate)

Fresh Foam X More v4 Product Page (available at <https://www.newbalance.com/pd/fresh-foam-x-more-v4/MMORV4-MPS.html>)



(Fresh Foam X More v4 “Arctic grey with natural indigo” colorway)

	<p><u>FuelCell Propel v4:</u></p> <p><b>Product Details</b> <span>+</span></p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• FuelCell foam delivers a propulsive feel to help drive you forward</li><li>• TPU plate for superior propulsion</li><li>• Received the Seal of Acceptance from the American Podiatric Medical Association (APMA)</li><li>• <math>\varnothing</math> 302.6 grams (10.7 oz)</li></ul> <p><b>Material</b></p> <ul style="list-style-type: none"><li>• Engineered upper</li><li>• Synthetic/mesh construction</li></ul> <p>FuelCell Propel v4 Product Page (available at <a href="https://www.newbalance.com/pd/fuelcell-propel-v4/MFCPRV4-42936.html?dwvar_MFCPRV4-42936_style=MFCPRCW4">https://www.newbalance.com/pd/fuelcell-propel-v4/MFCPRV4-42936.html?dwvar_MFCPRV4-42936_style=MFCPRCW4</a> )</p>
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	<p><u>Fresh Foam X More Trail v3:</u></p> <p><b>Product Details</b> <span style="float: right;">+</span></p> <p><b>Features</b></p> <ul style="list-style-type: none"> <li>• Fresh Foam X midsole foam with approximately 3% bio-based content delivers our most cushioned Fresh Foam experience for incredible comfort. Bio-based content is made from renewable resources to help reduce our carbon footprint</li> <li>• Toe Protect technology helps protect feet from rocks, roots and debris</li> <li>• Two-part midsole offers enhanced durability</li> <li>• <math>\varnothing</math> 322 grams (11.4 oz)</li> </ul> <p><b>Material</b></p> <ul style="list-style-type: none"> <li>• Synthetic/mesh upper helps provide breathability</li> </ul> <p>Fresh Foam X More Trail v3 Product Page (available at <a href="https://www.newbalance.com/pd/fresh-foam-x-more-trail-v3/MTMORV3-42938.html?dwvar_MTMORV3-42938_style=MTMORCO3">https://www.newbalance.com/pd/fresh-foam-x-more-trail-v3/MTMORV3-42938.html?dwvar_MTMORV3-42938_style=MTMORCO3</a> )</p>
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	<p><u>XC Seven v4:</u></p> <p><b>Product Details</b> <span>+</span></p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• REVLite midsole delivers incredibly lightweight cushioning</li><li>• Lightweight textile and mesh upper provides structure and a striking visual</li><li>• Traditional tongue and collar construction for a reliable fit</li><li>• 6-Pin spike plate for traction and speed</li><li>• Lace-up closure for a secure fit</li><li>• Designed for cross country runners</li><li>• ⌀ 178.3 grams (6.3 oz)</li></ul> <p>XC Seven v4 Product Page (available at <a href="https://www.newbalance.com/pd/xc-seven-v4/UXCR7V4-42970.html">https://www.newbalance.com/pd/xc-seven-v4/UXCR7V4-42970.html</a> )</p>
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	<p><u>FuelCell SD100 v5</u></p> <p><b>Product Details</b> </p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• FuelCell foam delivers a propulsive feel to help drive you forward</li><li>• Synthetic and mesh upper with reinforced toe for toe drag sprinters</li><li>• Upper features no-sew construction for a sleek fit and feel</li><li>• 6-Pin TPU spike plate for an aggressive yet forgiving ride</li><li>• Removable spikes for easy replacement</li><li>• Adjustable lace closure for a customized fit</li><li>• 154 grams (5.4 oz)</li></ul> <p>FuelCell SD100 v5 Product Page (available at <a href="https://www.newbalance.com/pd/fuelcell-sd100-v5/USD100V5-41188.html?dwvar_USD100V5-41188_style=USD100L5">https://www.newbalance.com/pd/fuelcell-sd100-v5/USD100V5-41188.html?dwvar_USD100V5-41188_style=USD100L5</a> )</p>
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	<p><u>FuelCell SuperComp XC-X:</u></p> <p><b>Product Details</b> </p> <p><b>Features</b></p> <ul style="list-style-type: none"><li>• FuelCell foam delivers a propulsive feel to help drive you forward</li><li>• Lightweight engineered mesh upper</li><li>• Upper features no-sew overlays for a sleek fit and feel</li><li>• Carbon fiber plate</li><li>• Removable pins for easy replacement</li><li>• Adjustable lace closure for a customized fit</li><li>• 142.3 grams (5 oz)</li></ul> <p>FuelCell SuperComp XC-X Product Page (available at <a href="https://www.newbalance.com/pd/fuelcell-supercomp-xc-x/UXCELRV1-42961.html?dwvar_UXCELRV1-42961_style=UXCELRV1-42961">https://www.newbalance.com/pd/fuelcell-supercomp-xc-x/UXCELRV1-42961.html?dwvar_UXCELRV1-42961_style=UXCELRV1-42961</a>)</p>
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On information and belief, the above-referenced textile element includes at least one knitted texture that differs from a knitted texture in the surrounding knitted textile structure. Various textures on each upper are shown in the dashed boxes below.

Fresh Foam X 860 v13:



FuelCell SuperComp Trainer:



FuelCell Rebel v3:



Fresh Foam X More v4:



FuelCell Propel v4:



Fresh Foam X More Trail v3:




XC Seven v4:



FuelCell SD100 v5:



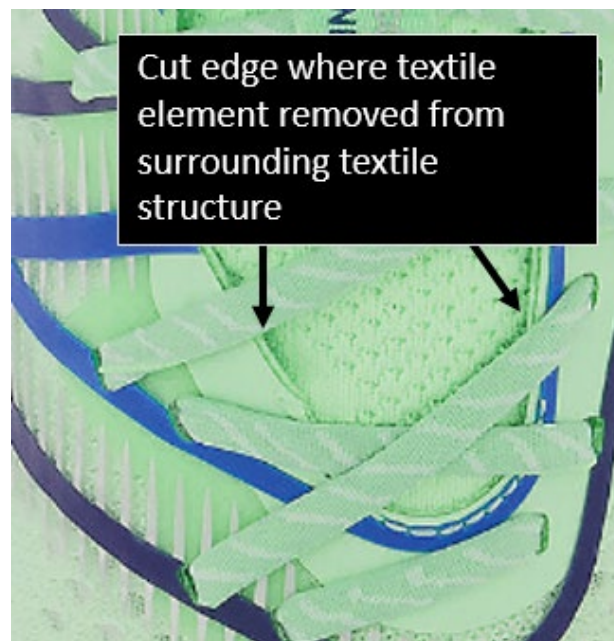
	<p><u>FuelCell SuperComp XC-X:</u></p> 
<p>1[b]. removing the knitted textile element from the surrounding knitted textile structure;</p>	<p><i>Upon information and belief, during manufacturing of the Fresh Foam X 860 v13, FuelCell SuperComp Trainer, FuelCell Rebel v3, Fresh Foam X More v4, FuelCell Propel v4, Fresh Foam X More Trail v3, XC Seven v4, FuelCell SD100 v5, and FuelCell SuperComp XC-X styles, New Balance performs, or causes to be performed, the step of removing the knitted textile element from the surrounding knitted textile structure.</i></p>

Fresh Foam X 860 v13:





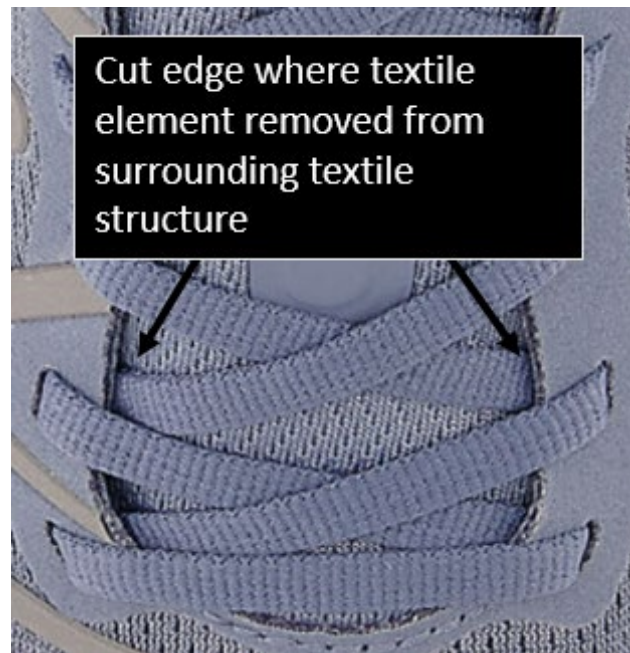
FuelCell SuperComp Trainer:



FuelCell Rebel v3:



Fresh Foam X More v4:



FuelCell Propel v4:



Fresh Foam X More Trail v3:




XC Seven v4:



FuelCell SD100 v5:





	<p><u>FuelCell SuperComp XC-X:</u></p> 
<p>1[c]. incorporating the knitted textile element into the article of footwear.</p>	<p><i>Upon information and belief, each of the Fresh Foam X 860 v13, FuelCell SuperComp Trainer, FuelCell Rebel v3, Fresh Foam X More v4, FuelCell Propel v4, Fresh Foam X More Trail v3, XC Seven v4, FuelCell SD100 v5, and FuelCell SuperComp XC-X styles is incorporated into the article of footwear by, or on behalf of, New Balance.</i></p>

Fresh Foam X 860 v13:



FuelCell SuperComp Trainer:



FuelCell Rebel v3:



Fresh Foam X More v4:



FuelCell Propel v4:



Fresh Foam X More Trail v3:



XC Seven v4:



FuelCell SD100 v5:



FuelCell SuperComp XC-X:

